

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

PAUL SAVAGE,	)	
	)	
Petitioner,	)	
	)	
vs.	)	NO. CIV-04-0721-HE
	)	
OKLAHOMA DEPARTMENT OF	)	
CORRECTIONS,	)	
	)	
Respondent.	)	

**ORDER**

This case is before the Court on the proposed findings of fact and recommendations of Magistrate Judge Robert E. Bacharach. The Court previously adopted Judge Bacharach's recommendation that habeas corpus relief be denied on petitioner's procedural due process claims related to his prison disciplinary hearing and his recommendation that an evidentiary hearing be held on petitioner's claim that his second disciplinary hearing was motivated by racial discrimination in violation of the Fourteenth Amendment's Equal Protection Clause. See Order of Nov. 15, 2004. Consistent with 28 U.S.C. § 636(b)(1)(B), the case was recommitted to Judge Bacharach for the purpose of holding an evidentiary hearing and for the entry of findings of fact and conclusions of law on the equal protection claim. An evidentiary hearing was held on March 9, 2005. In his proposed findings of fact and recommendations, Judge Bacharach concluded that the evidence did not support petitioner's equal protection claim and recommended denial of habeas corpus relief.


As provided by § 636(b)(1), the Court must conduct a de novo review of any portion of the Magistrate Judge's recommendation to which specific objection is made. Upon

review, the Court may accept, reject, or modify the recommendations, or the matter may be recommitted to the Magistrate Judge with additional instructions. 28 U.S.C. § 636(b)(1); Mathews v. Weber, 423 U.S. 261, 271 (1976). The Court has conducted its review and has concluded the proposed findings of fact and recommendations should be adopted in their entirety.

In his objection, petitioner takes issue with the magistrate judge's credibility determinations and interpretation of the testimony provided at the evidentiary hearing. Upon de novo review, the Court concludes the magistrate judge properly weighed the evidence and concurs in the finding that Mr. Hix did not order a rehearing because of racial concerns. Instead, the rehearing was ordered because Mr. Hix believed the first hearing officer had arrived at the wrong conclusion regarding petitioner's guilt. Accordingly, the findings and recommendations of the magistrate judge are **ADOPTED** in their entirety and petitioner's petition for writ of habeas corpus is **DENIED**.

**IT IS SO ORDERED.**

Dated this 11<sup>th</sup> day of July, 2005.

  
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JOE HEATON  
UNITED STATES DISTRICT JUDGE